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REPORT

OF THE

ATTORNEY GENERAL.

TO THE

GOVERNOR.

FOR THE YEARS 1883-4.

LINCOLN, NEB.
JOURNAL COMPANY, STATE PRINTERS.
1884.

REPORT OF THE ATTORNEY GENERAL.

ATTORNEY GENERAL'S OFFICE,

LINCOLN, NEB., Nov. 30, 1884.

To His Excellency James W. Dawes, Governor of Nebraska :

SIR:—I have the honor in compliance with the requirements of the law to submit for your consideration the following report of the business transacted by this office for the years 1883 and 1884.

A list of the cases in which the State is an interested party that have either been decided since my entrance into office or are now pending in the Supreme Court, will be found in the annexed schedule "A;" and the civil cases under the control of this office, in which the State is a party, pending or disposed of during such period in the District Courts of the State, are included in schedule "B;" and in schedule "C," those pending or disposed of in the Federal Courts. Of the State cases that have reached the Supreme Court during the period covered by this report, nineteen of the same have been decided in favor of the State, in three of which the death penalty was affirmed; ten against the State, leaving eight now pending and undisposed of.

A small appropriation should be made from which the Attorney General might draw when necessary to pay officers' fees in issuing and serving process of civil action instituted by the State. It is frequently found necessary for the State to resort to the courts to enforce the forfeiture of a bond, the recovery of an escheated estate and in many other instances, in which cases the officers issuing and serving the process are entitled to and can demand the fees that would be due them for like services rendered individuals, and if no provision is made for their payment the rights of the State are liable to suffer or be lost.

The difficulty heretofore experienced by this office could thus be obviated and the interest of the State promoted by the creation of a small fund of the nature suggested, placed either under the control of the Governor or Attorney General, which might be resorted to as occasion demanded the services of the officers in such cases.

It is made the primary duty of the Attorney General to appear for the State in all actions in the Supreme Court in which the State is a party or is interested, and also to give advice to the Legislature, or any officer of the Executive Department, when requested so to do.

The rapid increase in our population within the past few years and the consequent increased business for the Courts, criminal as well as civil, has added largely to the work of this office, which if properly attended to will now leave but little time to devote to other duties.

Notwithstanding this, the Attorney General in conjunction with other State Officers is made a member of several State Boards, entrusted with interests the importance of which should receive the almost constant supervision of those responsible for their proper management.

All of the public institutions of the State, both of a charitable and penal nature, of which there are six in number, located in different portions of the State, are under the control and management of the Board of Public Lands and Buildings, composed of the Secretary, Treasurer, Land Commissioner, and Attorney General.

The amount of money appropriated for the maintenance of these institutions and their growing importance, make it incumbent upon the State, without being illiberal, to secure the most commendable economy in their management and in the disbursement of the funds set apart for their support in order to secure in the fullest measure the purposes of their organization, and to do this

requires of those having them in charge constant watchfulness and personal attention, which is practically impossible from the State officers composing this board, burdened as they are with the constantly increasing duties of their respective offices.

It might be economy in the State to so change her fundamental law that these interests could be placed in the hands of those that would give them the constant personal supervision and care that their importance demands.

As the Attorney General is provided with no clerical force, many of the hundreds of letters received during the year from county and municipal officers and private persons calling for official opinions from this office, are necessarily left unattended to.

It is not made by law my duty to give advice in any such cases. I have, however, when the questions seemed to be of an important public nature, responded to them, and in all other cases where time would permit and it could be done without neglecting official duties.

Very respectfully,

ISAAC POWERS, JR.,

Attorney General.

SCHEDULE "A."

CASES PENDING OR DISPOSED OF IN THE SUPREME COURT.

No. 1.

Jerry Ackerman et al
vs.
The State of Nebraska.

} Fine for contempt of court
From Richardson county.
Reversed.

No. 2.

James Dolan
vs.
The State of Nebraska.

} For selling liquor. From Gage
county. Affirmed.

No. 3.

Frank Denman
vs.
The State of Nebraska.

} Manslaughter. From Lancas-
ter county. Affirmed.

No. 4.

Chas. DeGroat
vs.
The State of Nebraska.

} Arson. From Douglas coun-
ty. Judgment satisfied.

No. 5.

F. L. Lewis
vs.
The State of Nebraska.

} Larceny. From Washington
county. Affirmed.

No. 6.

George Hart
vs.
The State of Nebraska.

} Murder. From Hall county.
Death penalty affirmed.

No. 7.

Frank Stamon	}	Horse stealing. From Adams county. Reversed.
vs. The State of Nebraska.		

No. 8.

Orlando Dutcher et al	}	Riot. From Holt county. Affirmed.
vs. The State of Nebraska.		

No. 9.

John R. Polin	}	Murder. From Cass county Death penalty affirmed.
vs. The State of Nebraska.		

No. 10.

The State of Nebraska, ex rel. W. P. Squires,	}	To compel auditor to audit account and issue warrant. Judgment for state.
vs. John Wallich, Auditor of Public Accounts.		

No. 11.

Wm. C. Drake	}	Keeping house of ill-fame. From Lancaster county. Affirmed.
vs. The State of Nebraska.		

No. 12.

The State ex rel. J. H. Foxworthy	}	To compel auditor to audit and allow claim. Judgment for relator.
vs. Auditor of Public Accounts.		

No. 13.

The State, ex rel. George Hocknell,	}	To compel the auditor to register and certify bonds. Under advisement.
vs. Auditor Public Accounts.		

No. 14.

Quin Bohanan
vs.
The State of Nebraska.

} Murder. From Lancaster Co.
Reversed.

No. 15.

Wm. B. Thorn
vs.
The State of Nebraska.

} Embezzlement. From Adams
county. Pending.

No. 16.

Francis Hair
vs.
The State of Nebraska.

} Horse stealing. From Kear-
ney county. Reversed.

No. 17.

Matthias Simmerman
vs.
The State of Nebraska.

} Murder. From Kearney coun-
ty. Reversed.

No. 18.

Clinton Dill
vs.
The State of Nebraska.

} Murder. From Red Willow
county. Discontinued by
death of plaintiff in error.

No. 19.

Chas. B. Holmes et al
vs.
The State of Nebraska

} Forfeiture of recognizance.
From Johnson Co. Pend-
ing.

No. 20.

Enoch Bradshaw
vs.
The State of Nebraska.

} Murder. From Gage county.
Pending.

No. 21.

W. H. Bryant
vs.
The State of Nebraska.

} Resisting officer. From Gage
county. Reversed.

No. 22.

Jackson Marion
vs.
The State of Nebraska.

} Murder. From Gage county.
Reversed.

No. 23.

S. H. Richmond
vs.
The State of Nebraska.

} Rape. From Cass county.
Reserved.

No. 24.

Stephen Binfield
vs.
The State of Nebraska.

} Manslaughter. From Hall
county. Affirmed.

No. 25.

Dominick Brown
vs.
The State of Nebraska.

} Selling liquor. From Lancas-
ter county. Affirmed.

No. 26.

John O'Dea
vs.
The State of Nebraska.

} Obstructing public road. From
Washington county. Af-
firmed.

No. 27.

James E. Boyd
vs.
The State of Nebraska.

} Contempt. From Douglas
county. Pending.

No. 28.

Alonzo George
vs.
The State of Nebraska.

} Robbery. From Douglas coun-
ty. Reversed.

No. 29.

Roger C. Guthrie
vs.
The State of Nebraska.

} Bribery. From Douglas coun-
ty. Affirmed.

No. 30.

Henry C. Seling et al
vs.
The State of Nebraska.

} From Adams county. Pending.

No. 31.

Alexander Patrick
vs.
The State of Nebraska.

} Murder. From Seward county. Affirmed.

No. 32.

Henry Miller
vs.
The State of Nebraska.

} Embezzlement. From York county. Under advisement.

No. 33.

State, ex rel. Attorney General,
vs.
The Northwestern Mutual Live
Stock Association.

} Information. Judgment for State.

No. 34.

Matthias Simmerman
vs.
The State of Nebraska.

} Murder. From Kearney county. Death penalty affirmed.

No. 35.

Frances Hair
vs.
The State of Nebraska.

} Horse stealing. From Kearney county. Affirmed.

No. 36.

Mary A. Brown
vs.
The State of Nebraska.

} Manslaughter. From Buffalo county. Pending.

No. 37.

Philip Meese et al
vs.
The State of Nebraska.

} Riot. From Saunders county. Affirmed.

SCHEDULE "B."

CASES IN THE DISTRICT COURTS OF THE STATE.

No. 1.

The State of Nebraska
vs.
Lyman Frost et al.

} In the District Court of Lancaster county. Foreclosure of mortgage. Judgment for the state. Satisfied.

No. 2.

Page Francis
vs.
The State of Nebraska.

} In Red Willow District Court. Suing on claim against the State. Pending.

No. 3.

The State of Nebraska
vs.
F. W. Liedtke et al.

} York District Court. Judgment against State for costs.

No. 4.

Wm. D. Young
vs.
The State of Nebraska.

} In Lancaster District Court. Case dismissed at cost of the plaintiff.

No. 5.

Diantha Latham
vs.
The State of Nebraska.

} In District Court Lancaster county. Claim sued on, settled by the Legislature making an appropriation to pay the same. Chapter 74, Laws 1883.

SCHEDULE "C."

CASES IN THE FEDERAL COURTS.

No. 1.

Geo. W. Hoagland
vs.
The State of Nebraska.

} In the Supreme Court of the
United States. This case was
settled by the Legislature
making an appropriation.
Chapter 91, Laws 1883, to
pay the taxes in controversy.

No. 2.

The State of Nebraska
vs.
J. M. Young et al.

} In the Circuit Court of the
United States for the District
of Nebraska. Pending.